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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,092	03/12/2001	Koji Ishibashi	1924.65303	8987
24978	7590	06/25/2004	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			THOMSON, WILLIAM D	
			ART UNIT	PAPER NUMBER
			2123	

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/804,092

Applicant(s)

ISHIBASHI ET AL.

Examiner

William D. Thomson

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-10 have been presented for examination
2. Claims 1-10 have been examined and rejected.

### ***Claim Rejections - 35 U.S.C. § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically both claims 4 and 9, individually recite that the results are "displayed in such a way that these results correspond to the segment pairs". It is unclear how the results are displayed "in such a way" that they can correspond to segment pairs, which renders the claims indefinite. The manner in which they are displayed "in such a way" needs to be positively recited in the claims so that one would be apprised of the scope of the claims in a clear manner. The manner in which the claimed apparatus and related method performs the operation encompassed within "in such a way" has not been positively recited so as to apprise one of ordinary skill as to how or by what means the applicant is using to cover the associated limitations directed to providing the results correspond to the segment pairs. Examiner has interpreted "in such a way" as to any means that allows the predicted and simulated

results to be displayed relative to the segment pairs, including pairs of nodes on the network being modeled.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Henderson et al. (979).

Taking claim 1, for example, Henderson et al. (979) teaches a simulator (Abstract and VI) comprising: See Abstract, Figures 1A-10, col. 5, lines 13 et seq, especially sections II-IV, and VI of Henderson et al. (979).

a parameter gathering unit that gathers parameters (Q-metric, col. 16, lines 26 et seq.) from a plurality of portions in a network;( col. 2, lines 30- col. 4, lines 41)

a future prediction (future view) that according to the parameters gathered by said parameter gathering unit predicts a future state (future views) in said network over a prescribed length time (worksets, col. 10, lines 15 et seq.);

a model creation unit that creates a model corresponding to said network (current view as taught in Sections II-IV and VI);

a parameter application unit that applies the parameters gathered by said parameter gathering unit to the model created by said model creation unit; and (Q-metric and worksets)

a simulation unit that executes simulation according to the model created by said model creation unit (future view, Abstract, sections II-IV and VI) .

As to claim 2, the simulator according to claim 1, further comprising a display unit (GUI, sections II-III) that displays the result of prediction by said future prediction unit and the result of simulation by said simulation unit (Abstract, Section V) is taught at Sections II-IV and VI of Henderson et al. (979).

As to claim 3, the simulator according to claim 1, wherein said parameter gathering unit gathers the parameters corresponding a plurality of segment pairs (links, sources and sinks, Figure 5A-5D) in said network (Figure 1A as 100); and

wherein said future prediction unit predicts the future state (future view) over prescribed length of time (workset) corresponding relationship a plurality of the segment pairs (links, sources and sinks, Figure 5A-5D) is taught at Sections III, IV and VI of Henderson et al. (979).

As to claim 4, the simulator according to claim 3, wherein said display unit displays the result of prediction by said future prediction unit and the result of simulation by said simulation unit in such a way that these results correspond to the segment pairs is taught at Sections IV and VI and col. 13, lines 39 et seq, and col. 24, lines 43 et seq. of Henderson et al. (979).

As to claim 5, the simulator according to claim 2, wherein said display unit displays whether the result of simulation by said simulation unit satisfies the performance standard (Q-metric) of said network that has been set by a user (design engineer) beforehand is taught at Sections II-IV, VI of Henderson et al. (979)

Claims 6-9 are equivalent method claims reciting the same invention as in apparatus claims 1-5 and are rejected based upon the same reasoning as claims 1-5, supra. Claim 10 is an equivalent program product claim to method claim 6 and therefore is rejected based upon the same reasoning, supra. See Abstract, Figures 1A-10, col. 5, lines 13 et seq, especially sections II-IV, and VI of Henderson et al. (979)

### **Conclusion**

5. The prior art made of record on the P.T.O. 892 has not been relied upon and is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding this Office Action, see 37 C.F.R. 1.111 (c).

### **CONTACT INFORMATION**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William D. Thomson whose telephone number is 703-305-0022. The examiner can normally be reached on 8:30-3:30 Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703-305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2123

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William Thomson  
A.U. 2123  
Primary Examiner  
June 21, 2004

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